

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RUFUS SPEARMAN,

Petitioner,

CIVIL CASE NO. 05-40006

v.

THOMAS BIRKETT,

HONORABLE PAUL V. GADOLA
U.S. DISTRICT COURT

Respondent.

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ORDER ACCEPTING REPORT AND RECOMMENDATION

Before the Court is Petitioner's application for a writ of habeas corpus, filed on January 10, 2005, and the Report and Recommendation of the Honorable Paul J. Komives, United States Magistrate Judge. The Magistrate Judge recommends that this Court deny Petitioner's application for writ of habeas corpus. The Magistrate Judge served the Report and Recommendation on all parties on March 7, 2006, and notified the parties that any objections must be filed within ten days of service. Accordingly, any objections should have been filed by approximately March 27, 2006. Neither party filed objections to the Report and Recommendation.

The Court's standard of review for a Magistrate Judge's Report and Recommendation depends upon whether a party files objections. If a party does not object to the Report and Recommendation, the Court does not need to conduct a review by any standard. *See Lardie v. Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (Gadola, J.). As the Supreme Court observed, "[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those

findings.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Since neither party has filed objections to the Report and Recommendation, the Court need not conduct a review.

ACCORDINGLY, IT IS HEREBY ORDERED that the Report and Recommendation [docket entry 23] is **ACCEPTED** and **ADOPTED** as the opinion of this Court.

IT IS FURTHER ORDERED that Petitioner’s application for a writ of habeas corpus [docket entry 2] is **DENIED**.

SO ORDERED.

Dated: March 31, 2006

s/Paul V. Gadola
HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on April 3, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Debra M. Gagliardi, and I
hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Rufus Spearman.

s/Ruth A. Brissaud
Ruth A. Brissaud, Case Manager
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